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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

FERNANDO ROMAN GARCIA,

Defendant and Appellant.

G051342

(Super. Ct. No. 14NF3832)

O P I N I O N

Appeal from a postjudgment order of the Superior Court of Orange County,
Jonathan S. Fish, Judge. Affirmed.

Kenneth H. Nordin, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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We appointed counsel to represent defendant Fernando Roman Garcia on appeal. Counsel filed a brief which set forth the facts of the case. Counsel did not argue against the client, but advised the court no issues were found to argue on appellant's behalf. We have examined the record and found no arguable issue. (*People v. Wende* (1979) 25 Cal.3d 436.) Appellant was given 30 days to file written argument in appellant's own behalf. That period has passed, and we have received no communication from appellant.

A felony complaint charged defendant with two counts of second degree vehicle burglary, felonies, in counts one and three; false representation to a police officer, a misdemeanor, in count two; and, carrying a dirk or dagger, a felony, in count four. Defendant pled guilty to all four counts, providing the following facts to support his guilty plea: "In Orange County, California, on 9-12-14, I willfully and unlawfully entered 2 locked motor vehicles with the intent to steal, possessed a dirk or dagger concealed upon my person, and gave a false name to a police officer to evade proper identification." The court accepted defendant's guilty plea, suspended imposition of sentence and placed defendant on supervised probation.

On December 29, 2014, defendant petitioned the court under Penal Code sections 490.2 and 1170.18, subdivisions (a), (d) and (f), the statute implementing voter-approved Proposition 47 (Gen. Elec. (Nov. 4, 2014)), to reduce his two second degree vehicle burglary convictions to misdemeanors. (All further statutory references are to the Penal Code.) The prosecution filed a form response in opposition to the petition, on which it stated defendant was not entitled to relief "because: vehicle burglary." The trial court ruled: "Because count 1 and count 3 are burglaries of cars, the petition is denied." Thereafter, defendant filed a notice of appeal on which he stated: "Appeal after denial of Prop 47 petition for resentencing pursuant to PC 1170.18."

To assist us in our independent review of the record, counsel suggests we consider whether: (1) The superior court erred in denying defendant's application to

reduce his convictions for second degree vehicle burglary to misdemeanors because the plain language of Proposition 47 includes all theft-related offenses where the property value does not exceed \$950; and, (2) The superior court's denial of defendant's petition violates defendant's state and federal constitutional rights to equal protection of the law.

We have considered the issues counsel suggests and conclude the trial court did not err. Section 1170.18 does not, by its terms, address vehicle burglary, and nothing in its language indicates it was ever intended to apply to this crime. Nor has defendant demonstrated that the failure to list vehicular burglary in section 1170.18 "constitutes a legislative classification which is not reasonably related to a legitimate public purpose," as required to show section 1170.18 violates defendant's right to equal protection. (*In re Kapperman* (1974) 11 Cal.3d 542, 545; *People v. Smith* (2015) 234 Cal.App.4th 1460, 1466.) We find nothing in the record to indicate the value of the property involved, and, therefore, need not address counsel's other suggested issue.

We have also independently reviewed the record according to our obligations under *Anders v. California* (1967) 386 U.S. 738, but found no other arguable issues on appeal.

The postjudgment order denying defendant's petition is affirmed.

MOORE, ACTING P. J.

WE CONCUR:

FYBEL, J.

THOMPSON, J.